



City Council Chambers
3300 Capitol Avenue
Fremont, California

City Council

Bob Wasserman, Mayor
Suzanne Lee Chan, Vice Mayor
Anu Natarajan
Bill Harrison
Dominic Dutra

City Staff

Fred Diaz, City Manager
Harvey E. Levine, City Attorney
Annabell Holland, Interim Assistant City
Manager/Parks & Recreation Director

Dawn G. Abrahamson, City Clerk
Robert Beyer, Interim Community Dev. Director
Harriet Commons, Finance Director
Marilyn Crane, Information Technology Svcs. Dir.
Mary Kaye Fisher, Interim Human Resources Dir.
Norm Hughes, City Engineer
Bruce Martin, Fire Chief
Jim Pierson, Transportation & Ops Director
Jeff Schwob, Planning Director
Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Lori Taylor, Economic Development Director
Elisa Tierney, Redevelopment Director

City Council Agenda and Report [Redevelopment Agency of Fremont]

General Order of Business

1. Preliminary
 - Call to Order
 - Salute to the Flag
 - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
 - Public Hearings
 - Appeals
 - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

The City Council Agendas may be accessed by computer at the following Worldwide Web Address: www.fremont.gov

Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk
City of Fremont
3300 Capitol Avenue, Bldg. A
Fremont, California 94538
Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

**NOTICE AND AGENDA OF SPECIAL MEETING
CLOSED SESSION
CITY COUNCIL OF THE CITY OF FREMONT**

DATE: **Tuesday, January 11, 2011**

TIME: **6:30 p.m.**

LOCATION: **Fremont Room, 3300 Capitol Avenue, Fremont**

The City will convene a special meeting. It is anticipated the City will immediately adjourn the meeting to a closed session for possible initiation of litigation against the City in one matter, as follows:

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

This Closed Session is authorized by subdivision (C) of Section 54956.9 of the Government Code and will pertain to possible initiation of litigation against the City in one matter.

Claimant: Matthew Fernandes

This Special Meeting is being called by Mayor Wasserman.

AGENDA
FREMONT CITY COUNCIL REGULAR MEETING
JANUARY 11, 2011
COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A
7:00 P.M.

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

- 2.1 *Motion to Waive Further Reading of Proposed Ordinances
(This permits reading the title only in lieu of reciting the entire text.)*
- 2.2 *Approval of Minutes – None.*
- 2.3 **APPROVAL OF FINAL MAP OF TRACT 7916 AT 220, 250, 300 AND 310 LURENE DRIVE BY KB HOME SOUTH BAY INC., A CALIFORNIA CORPORATION**
Approval of Final Map, Improvement Plans, Agreement for Construction of Private Street Improvements (Lurene Drive, Paso Nuez Common, Paso Pino Common, Paso Roble Common, Paso Cedro Common and Paso Olmo Terrace), and Dedication of Land and Public Easements for Tract 7916

Contact Person:

<i>Name:</i>	<i>Dilip Kishnani</i>	<i>Norm Hughes</i>
<i>Title:</i>	<i>Associate Civil Engineer</i>	<i>City Engineer</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4736</i>	<i>510-494-4748</i>
<i>E-Mail:</i>	<i>dkishnani@fremont.gov</i>	<i>nhughes@fremont.gov</i>

RECOMMENDATION: Adopt a resolution:

1. *Approving the Final Map and the Improvement Plans for Tract 7916.*
2. *Approving the Agreement for Private Street Improvements entitled “Private Improvement Agreement, Tract 7916”, with the developer, KB Home South Bay Inc., a California corporation and authorizing the City Manager to execute the agreement on behalf of the City.*
3. *Accepting the developer’s offer of dedication of land, as identified on the Final Map, provided that the acceptance of any offer of dedication for any public streets shall be conditioned upon the developer’s completion of improvements to the satisfaction of the City Engineer.*

2.4 ACCEPTANCE OF REDEVELOPMENT AGENCY ANNUAL REPORT OF FINANCIAL TRANSACTIONS AND HOUSING ACTIVITIES REPORT

Acceptance of the Fremont Redevelopment Agency’s Annual Report of Financial Transactions and Housing Activities Report

Contact Person:

<i>Name:</i>	<i>Irene de Jong</i>	<i>Elisa Tierney</i>
<i>Title:</i>	<i>Redevelopment Business Manager</i>	<i>Redevelopment Agency Director</i>
<i>Dept.:</i>	<i>City Manager</i>	<i>City Manager</i>
<i>Phone:</i>	<i>510-494-4510</i>	<i>510-494-4501</i>
<i>E-Mail:</i>	<i>idejong@fremont.gov</i>	<i>etierney@fremont.gov</i>

RECOMMENDATION: Accept the Redevelopment Agency Annual Report as submitted to the State Controller.

2.5 AUTHORIZATION TO ACCEPT SHSP GRANT FUNDS AND MAKE ASSOCIATED PURCHASES

Authorization to Enter into an Agreement with the Alameda County Office of Emergency Services as Fiscal Agent for the State Homeland Security Program (SHSP) to Accept SHSP Grant Funds and Make Associated Purchases

Contact Person:

<i>Name:</i>	<i>Kelly Sessions</i>	<i>Bruce Martin</i>
<i>Title:</i>	<i>Business Manager</i>	<i>Fire Chief</i>
<i>Dept.:</i>	<i>Fire</i>	<i>Fire</i>
<i>Phone:</i>	<i>510-494-4281</i>	<i>510-494-4200</i>
<i>E-Mail:</i>	<i>ksessions@fremont.gov</i>	<i>bmartin@fremont.gov</i>

RECOMMENDATION: Authorize the City Manager or designee to enter into an agreement with the Alameda County Office of Emergency Services to accept and appropriate 2008 SHSP grant funds totaling \$48,000 to Fiscal Year 2010/11 to Fund 199 (Misc. Federal Grants), and to spend those funds on incident leadership training as proposed.

2.6 *GENERAL VACATION OF A PORTION OF THORNTON AVENUE AND POST STREET IN THE CENTERVILLE PLANNING AREA*

Public Hearing (Published Notice) to Consider a General Vacation to Abandon a Portion of Thornton Avenue and Post Street in the Centerville Planning Area (PLN2009-00258) and if Approved to Authorize Conveyance of the Vacated Portion of the Street to Dale Hardware (Continued from December 14, 2010)

Contact Person:

<i>Name:</i>	<i>Terry Wong</i>	<i>Jeff Schwob</i>
<i>Title:</i>	<i>Associate Planner</i>	<i>Planning Director</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4456</i>	<i>510-494-4527</i>
<i>E-Mail:</i>	<i>twong@fremont.gov</i>	<i>jschwob@fremont.gov</i>

RECOMMENDATION:

1. *Hold public hearing.*
2. *Find the proposed General Vacation (PLN2009-00258), as depicted and described on Exhibit "A" is in conformance with the General Plan, for the reasons stated in the body of this report.*
3. *Find PLN2009-00258, as depicted and described on Exhibit "A," fulfills the applicable criteria set forth in Section 8324 of the Streets and Highways Codes in that the portion of Thornton Ave to be vacated is not now, nor will it in the future, be required for public street purposes.*
4. *The General Vacation shall conform to Exhibit "A."*
5. *Adopt a resolution conditionally vacating the portion of Thornton Avenue as described and depicted in Exhibit "A. The vacation is conditional and shall not be recorded or effective until all of the following have occurred:*
 - a. *The Dale Hardware Inc. Project Lot Combination is approved by City staff and is ready to be recorded.*
 - b. *Dale Hardware Inc. has executed and delivered to the City, at no cost to the City, an easement granting the city temporary roadway and utility easement to allow the public and public utility agencies the right to use and to maintain the roadway, sidewalk and utilities existing in the vacated portion of Thornton Avenue until such time as the developer removes and reconstructs the road, sidewalk and utilities as permitted by the City and other public agencies or utilities.*
6. *Upon payment to the City of a sum determined to be the fair market value of the parcels, authorize the City Manager, or designee to execute a deed conveying Parcels A and C as shown on Exhibit "A" to Dale Hardware Inc.*
7. *Direct that the resolution vacating a portion of Thornton Avenue; the Dale Hardware expansion project lot combination; the deed for Parcels A and C, and the temporary easement allowing public use of the vacated Thornton Avenue shall be deposited into an informal escrow with the City and shall be recorded together in the following order:*
 - a. *Resolution vacating a Portion of Thornton Avenue*
 - b. *Deed conveying the Parcels A and C (as shown on Exhibit A) of the vacated portion of Thornton Avenue to Dale Hardware Inc.*

- c. *Lot Combination for the Dale Hardware store expansion project.*
- d. *Temporary Easement from Dale Hardware Inc. to the City for public use of the vacated portion of Thornton Avenue.*

3. CEREMONIAL ITEMS

- 3.1 Proclamation: Declaring January 2011 as National Blood Donor Month

4. PUBLIC COMMUNICATIONS

- 4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – The Redevelopment Agency Board will convene at this time and take action on the agenda items listed on the Redevelopment Agency Agenda. [See separate agenda](#) (yellow paper).

PUBLIC FINANCING AUTHORITY – None.

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

5. SCHEDULED ITEMS – None.

6. REPORT FROM CITY ATTORNEY

- 6.1 Report Out from Closed Session of Any Final Action

7. OTHER BUSINESS

- 7.1 CAPITAL IMPROVEMENT PROGRAM (CIP) PROCESS UPDATE AND PWC CLOSE OUTS
Presentation of CIP Progress, Capital Revenue Projections and Initial Project Prioritization, and Approve the Close Out of Completed Capital Projects

Contact Person:

Name:	Sean O'Shea	Norm Hughes
Title:	Management Analyst II	City Engineer
Dept.:	Community Development	Community Development
Phone:	510-494-4777	510-494-4748
E-Mail:	soshea@fremont.gov	nhughes@fremont.gov

RECOMMENDATIONS:

1. Provide comment on staff prioritization lists.
2. Approve the close outs and defunding of capital projects identified on Enclosure C, and return funds to fund balance for future appropriation in the FY 2011/12-2015/16 CIP.
3. Approve the transfer of remaining funds between capital projects as identified on Enclosure C.
4. Approve appropriation of current and future interest earnings from Proposition 1B funding to 527PWC8234.
5. Approve appropriation of \$11,000 for funds received from Candlelighters (\$6,000) and Washington Township & Mission Peak (\$5,000) to 502PWC8394 for Rancho Higuera Roof Restoration.
6. Direct staff to make an application to the WW Local Grant Program, 2011 cycle, for \$2,673,000, for the Patterson House Foundation and Electrical Improvements (\$823,000), Warm Springs Restrooms and Recreation Room Replacement (\$475,000), Calsense Irrigation System for Park System (\$514,000), Well and Pump Replacements at various locations (\$861,000).

7.2 FREMONT SKATE PARK DESIGN

Further Consideration of the Site Master Plan and Related Environmental Document for the Fremont Skate Park, 8672 (PWC)

Contact Person:

Name:	Roger Ravenstad	Annabell Holland
Title:	Senior Landscape Architect	Interim Assistant City Manager
Dept.:	Community Development	City Manager's Office
Phone:	510-494-4723	510-494-4329
E-Mail:	rravenstad@fremont.gov	aholland@fremont.gov

RECOMMENDATION:

1. Consider rescinding previous project approvals.
2. Provide direct to staff.

8. COUNCIL COMMUNICATIONS

8.1 Council Referrals – None.

8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT



REPORT SECTION
FREMONT CITY COUNCIL
REGULAR MEETING

JANUARY 11, 2011

***2.3 APPROVAL OF FINAL MAP OF TRACT 7916 AT 220, 250, 300 AND 310 LURENE DRIVE BY KB HOME SOUTH BAY INC., A CALIFORNIA CORPORATION**
Approval of Final Map, Improvement Plans, Agreement for Construction of Private Street Improvements (Lurene Drive, Paso Nuez Common, Paso Pino Common, Paso Roble Common, Paso Cedro Common and Paso Olmo Terrace), and Dedication of Land and Public Easements for Tract 7916

Contact Person:

Name:	Dilip Kishnani	Norm Hughes
Title:	Associate Civil Engineer	City Engineer
Dept.:	Community Development	Community Development
Phone:	510-494-4736	510-494-4748
E-Mail:	dkishnani@fremont.gov	nhughes@fremont.gov

Executive Summary: The purpose of this report is to recommend that the City Council approve Final Map 7916, authorize the City Manager to execute the agreement for construction of private street improvements for Tract 7916, and accept the dedications of public streets and easements subject to improvement.

DISCUSSION/ANALYSIS: Tract 7916 is located on four existing residential parcels and one private street parcel along the south side of Lurene Drive west of Mission Boulevard in the Mission San Jose Planning Area. This project encompasses 3.74 acres and includes 54 residential attached units in clusters of 6 unit buildings (9 buildings total). The project is generally in conformance with Vesting Tentative Tract Map 7916 (PLN2007-00207), previously approved by the Planning Commission on October 11, 2007. The developer, KB Home, has created Covenants, Conditions, and Restrictions (CC&R's) for Tract 7916 which contain all of the required provisions of the Vesting Tentative Map.

The developer has signed an agreement and posted a bond to guarantee construction of the private street and common area improvements (Lurene Drive, Paso Nuez Common, Paso Pino Common, Paso Roble Common, Paso Cedro Common and Paso Olmo Terrace). The bond amount for construction of the subdivision improvements is \$2,757,700 for faithful performance of the agreement and \$2,757,700 for payment of labor and materials, based on preliminary cost estimates. The Final Map and Improvement Plans have been reviewed and are now ready for City Council approval.

ENVIRONMENTAL REVIEW: On December 4, 2007, City Council found that the initial study and Mitigated Negative Declaration circulated for the project had identified concerns regarding potential impacts to air quality during the construction phase of the project. City Council also found that the Mitigated Negative Declaration circulated for the project adequately addresses potential impacts arising from the proposed project and the identified mitigation measures, which are incorporated as conditions of approval, will reduce potential impacts to less than significant levels and further find that this action reflects the independent judgment of the City of Fremont. The Final Map and Improvement Plans are consistent with the original project description, scope of work, and identified mitigations of the adopted Mitigated Negative Declaration. No further environmental review is required.

ENCLOSURES:

- [Draft Resolution](#)
- [Site Plan](#)

RECOMMENDATION: Adopt a resolution:

1. Approving the Final Map and the Improvement Plans for Tract 7916.
2. Approving the Agreement for Private Street Improvements entitled “Private Improvement Agreement, Tract 7916”, with the developer, KB Home South Bay Inc., a California corporation and authorizing the City Manager to execute the agreement on behalf of the City.
3. Accepting the developer’s offer of dedication of land, as identified on the Final Map, provided that the acceptance of any offer of dedication for any public streets shall be conditioned upon the developer’s completion of improvements to the satisfaction of the City Engineer.

***2.4 ACCEPTANCE OF REDEVELOPMENT AGENCY ANNUAL REPORT OF FINANCIAL TRANSACTIONS AND HOUSING ACTIVITIES REPORT**
Acceptance of the Fremont Redevelopment Agency's Annual Report of Financial Transactions and Housing Activities Report

Contact Person:

Name:	Irene de Jong	Elisa Tierney
Title:	Redevelopment Business Manager	Redevelopment Agency Director
Dept.:	City Manager	City Manager
Phone:	510-494-4510	510-494-4501
E-Mail:	idejong@fremont.gov	etierney@fremont.gov

Note: A companion item appears on the January 11, 2011 Redevelopment Agency agenda.

Executive Summary: State law requires every Redevelopment Agency to submit an annual report to the City Council. This agenda item provides information on the annual report and recommends that the Council accept this report.

BACKGROUND: State law and related regulations require the Fremont Redevelopment Agency to submit an annual report to the State Controller's Office by December 31 of each year and to submit the report to the Agency's Legislative Body. Copies of the report were distributed to Council and submitted to the State by the statutory deadline of December 31. The report is also available for public review in the Office of Housing and Redevelopment.

DISCUSSION/ANALYSIS: State law mandates that the Fremont Redevelopment Agency submit an annual report within six months of the close of the fiscal year to the Agency's Legislative Body as well as to the State Controller's Office. As required, the report comprises the following:

- U.S. Bureau of the Census Survey Form
- Annual Report of Financial Transactions of Community Redevelopment Agencies
- Redevelopment Agency's Financial and Compliance Audit
- Annual Report of Housing Activity of Community Redevelopment Agencies
- Blight Progress Report
- Loan Report
- Property Report

The Legislative Body is required to review the report and take any action it deems appropriate by no later than its first meeting that occurs more than 21 days after receipt of the report, which is the January 11, 2011 City Council meeting.

FISCAL IMPACT: Although the Redevelopment Agency Annual Report contains financial material, the document is submitted for informational purposes only and has no fiscal impact.

ENVIRONMENTAL REVIEW: None.

ENCLOSURE: [Redevelopment Agency Annual Report](#)

RECOMMENDATION: Accept the Redevelopment Agency Annual Report as submitted to the State Controller.

***2.5 AUTHORIZATION TO ACCEPT SHSP GRANT FUNDS AND MAKE ASSOCIATED PURCHASES**

Authorization to Enter into an Agreement with the Alameda County Office of Emergency Services as Fiscal Agent for the State Homeland Security Program (SHSP) to Accept SHSP Grant Funds and Make Associated Purchases

Contact Person:

Name:	Kelly Sessions	Bruce Martin
Title:	Business Manager	Fire Chief
Dept.:	Fire	Fire
Phone:	510-494-4281	510-494-4200
E-Mail:	ksessions@fremont.gov	bmartin@fremont.gov

Executive Summary: Staff seeks City Council approval to enter into an agreement with the Alameda County Office of Emergency Services to accept 2008 State Homeland Security Program (SHSP) grant funds totaling \$48,000 and to appropriate and spend those funds on disaster preparedness training with a vendor who has already provided similar training to the Fire Department in this fiscal year. This additional contract would put the total contract amount with the vendor over \$100,000, thus requiring City Council approval per the City's Purchasing Ordinance (FMC, Section 2-9100).

BACKGROUND: The State Homeland Security Program (SHSP) is a United States Department of Homeland Security program that provides funds to build capabilities at the State and local levels through planning, organization, equipment, training, and exercise activities. DHS has designated the State Office of Emergency Services (State OES) as the fiscal agent for coordinating and managing disaster preparedness grant funds. With the goal of furthering the DHS program and objectives to improve local disaster preparedness, State OES in turn gives annual grant funds to counties as sub-grantees. In the capacity of sub-grantee, Alameda County OES has notified the City of Fremont Fire Department that existing, unclaimed grant funds will soon be returned to DHS if left unspent. The Fire Department, therefore, proposed to spend these funds on advanced incident leadership training and has been approved to receive funding totaling \$48,000.

The Fire Department has provided this training in the past under an earlier grant. The training allowed members of the Fremont Fire and Police Departments, as well as members of surrounding public safety agencies, to obtain critical emergency response training.

DISCUSSION/ANALYSIS: "Incident Leadership" (L-381) is a five-day leadership training course for public safety officers. The training focuses on disciplines that enhance team resiliency and effectiveness, including leadership, error reduction and management, and doctrine development. Acceptance of the SHSP grant funds would assist the City of Fremont and surrounding jurisdictions to increase their operational readiness and improve incident leadership in an all-risk environment.

The City has already contracted with the proposed vendor, Mission Centered Solutions, Inc. (MCS), a private vendor of training services, to provide similar training in this fiscal year. The addition of this contract would increase the total contract amount with MCS in FY 2010/11 to over \$100,000, thus requiring that the contract be brought to the City Council for approval.

MCS is the original developer and designer of the L-381 program. MCS is the only authorized provider of this training in California and the only vendor approved by the Department of Homeland Security (DHS) to provide this program. L-381 courses provided by other vendors are not approved by DHS for funding.

FINANCIAL IMPACT: The City would receive grant funding totaling \$48,000, which would be appropriated to the 2010/11 fiscal year in a special revenue fund. The entire grant amount would be spent on providing L-381 leadership training at two separate times before the end of the fiscal year. The cost of providing the two courses is \$24,000 each, for a total appropriation of \$48,000. There is no matching requirement for the grant, and all grant funds are given on a not-to-exceed reimbursable basis only. Any other incidental costs will be borne by the Fire Department Training budget; experience has shown they are minimal, if any.

ENVIRONMENTAL REVIEW: While acceptance of these grant funds does not create an environmental impact, use of the funds as proposed would help prepare the City to be in better position of protecting the region and environment from potential disasters and catastrophic incidents.

ENCLOSURE: None.

RECOMMENDATION: Authorize the City Manager or designee to enter into an agreement with the Alameda County Office of Emergency Services to accept and appropriate 2008 SHSP grant funds totaling \$48,000 to Fiscal Year 2010/11 to Fund 199 (Misc. Federal Grants), and to spend those funds on incident leadership training as proposed.

***2.6 GENERAL VACATION OF A PORTION OF THORNTON AVENUE AND POST STREET IN THE CENTERVILLE PLANNING AREA**

Public Hearing (Published Notice) to Consider a General Vacation to Abandon a Portion of Thornton Avenue and Post Street in the Centerville Planning Area (PLN2009-00258) and if Approved to Authorize Conveyance of the Vacated Portion of the Street to Dale Hardware (Continued from December 14, 2010)

Contact Person:

Name:	Terry Wong	Jeff Schwob
Title:	Associate Planner	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4456	510-494-4527
E-Mail:	twong@fremont.gov	jschwob@fremont.gov

Executive Summary: Staff recommends that City Council adopt a resolution to vacate a portion of Thornton Avenue right-of-way at Post Street. This action was requested by Dale Hardware Inc. in conjunction with the proposed expansion of their existing retail site, which also includes combining four contiguous parcels currently under their ownership in the Centerville Planning Area. General vacation of this portion of Thornton Avenue would eliminate excess right-of-way at the southeast return of Post Street to eastbound Thornton Avenue. Staff recommends that the City Council approve the proposed vacation of this portion of Thornton Avenue and authorize the City Manager to convey a 284 square foot portion of the vacated area owned by the City to Dale Hardware Inc. The vacation would be effective with the recordation of a Lot Combination for the Dale Hardware expansion project.

BACKGROUND: The parcel located adjacent to the subject vacation (37030 Post Street) contains a 6,216 square foot single-story vacant commercial building on 0.68 acres that was recently occupied by a pet supply store. Future plans for the adjacent parcel include combining the parcel with the existing Dale Hardware parcels, demolition of the existing building and construction of a larger parking lot and landscaped planters for a future expansion of Dale Hardware. Street improvements for the realigned Thornton Avenue will be required under the Street Right of Way and Improvement Ordinance and will be installed with the Dale Hardware expansion. The street improvements include curb, gutter, sidewalk, street lighting, landscaping and a driveway for right turns in and out of Dale Hardware to Thornton Avenue.

In accordance with the California Street and Highways Code, (Sections 8322 and 8323) notices of the proposed vacation were published in the newspaper and posted across the project site's Thornton Avenue and Post Street frontages 15 days prior to the City Council public hearing on the project.

On November 23, 2010, the City Council adopted a motion initiating this general vacation and directed the Clerk to set and publicly notice a public hearing on December 14, 2010. The public hearing was reset to January 11, 2011 to allow additional time to complete required publishing and posting of public hearing notices for the proposed general vacation.

DISCUSSION/ANALYSIS: The area to be vacated consists of a 5,783 square foot area including the traffic island and right turn lane for vehicle traffic traveling from Post Street to east bound Thornton

Avenue. The proposed area to be vacated is depicted on the enclosure. The applicant proposes to install improvements and relocate utilities in conjunction with proposed development on the adjacent site.

The portion of old Thornton Avenue (County Road 8053), shown as Parcel B on the enclosure, is owned in fee by Dale Hardware. After the street vacation, Dale Hardware's property would no longer be burdened by the roadway easement for public use. Parcels A and C as shown on the enclosure are owned in fee by the City and combined consist of approximately 284 square feet.. These parcels will be sold to the developer for fair market value.

RATIONALE FOR VACATION: California Streets and Highways Code Section 8324 states that a general vacation may be ordered by the city council if it finds that the area to be vacated is unnecessary for present or prospective public use. The proposed vacation meets this criterion as the right-of-way to be vacated is considered to be excess. The excess area resulted from the realignment of Thornton Avenue between Fremont Boulevard and Paseo Padre Parkway in the 1970's. At that time Thornton Avenue was widened on its north side, between Fremont Boulevard and Paseo Padre Parkway, and the right-of-way was increased from its original 40 foot width in the 1950's to its current 104 foot width. At the same time right-of-way was acquired and improvements were made for Post Street and Bonde Way. Improvements already existed at Thornton Avenue and Post Street, and these existing improvements were allowed to remain within the previous alignment of Thornton Avenue. This left an extra wide right-of-way with an oversized traffic island and additional pavement at the southeast return of Post Street to east bound Thornton Avenue that is not needed presently or in the future to accommodate traffic. The proposed vacation will not eliminate any lanes of travel and will not affect the capacity of the street.

Further, Streets & Highways Code Sections 8314 and 892 require that prior to abandoning a right-of-way, the council determine that the right-of-way is not useful as a non-motorized transportation facility. The area to be vacated is excess right-of-way. Therefore, the proposed vacation will not eliminate any existing non-motorized transportation facilities. Additionally, as part of the Thornton Avenue realignment new street improvements, including sidewalks will be constructed for pedestrians. Realigned Thornton Avenue will also have sufficient capacity for bicycles.

GENERAL PLAN CONSISTENCY: As set forth in California Streets and Highways Code (SHC) Section 8313, if a proposed street vacation is within an area for which a General Plan is adopted, the General Plan must be considered prior to taking action on the vacation. Government Code Section 65402 sets forth the procedure for considering the General Plan, which includes the Planning Commission determining if the proposed general street vacation conforms to the General Plan. On February 25, 2010, the Planning Commission reviewed the proposed general vacation and found it consistent with the General Plan.

The proposed general vacation of a portion of Thornton Avenue Street is consistent with General Plan Fundamental Goal 8: "A diversity of residential, recreational, cultural, employment and shopping opportunities" because the reconfigured Thornton Avenue right-of-way would be an appropriate size and configuration to accommodate existing and future vehicular and pedestrian traffic while improving pedestrian accessibility within this Community Commercial portion of Centerville.

FISCAL IMPACT: None.

ENVIRONMENTAL REVIEW: The full scope of the project will ultimately include an expansion of the existing retail hardware store. The complete project, including the vacation is exempt from CEQA review per Guideline 15332, In-fill development projects, as the development project is on a site less than five acres and is consistent with the General Plan as well as applicable zoning designation and regulations.

PUBLIC NOTIFICATION: In accordance with State law, notice of the hearing on the proposed vacation has been given by publication in the Tri-City Voice for two successive weeks (starting December 21, 2010) and by conspicuously posting signs along the subject excess right of way proposed for vacation.

Notification to Utility Companies: All utility companies providing service in the area have been notified about the proposed vacation. No objections have been submitted.

ENCLOSURE: [Draft resolution, plat, and legal description vacating a portion of Thornton Avenue](#)

RECOMMENDATION:

1. Hold public hearing.
2. Find the proposed General Vacation (PLN2009-00258), as depicted and described on Exhibit "A" is in conformance with the General Plan, for the reasons stated in the body of this report.
3. Find PLN2009-00258, as depicted and described on Exhibit "A," fulfills the applicable criteria set forth in Section 8324 of the Streets and Highways Codes in that the portion of Thornton Ave to be vacated is not now, nor will it in the future, be required for public street purposes.
4. The General Vacation shall conform to Exhibit "A."
5. Adopt a resolution conditionally vacating the portion of Thornton Avenue as described and depicted in Exhibit "A. The vacation is conditional and shall not be recorded or effective until all of the following have occurred:
 - a. The Dale Hardware Inc. Project Lot Combination is approved by City staff and is ready to be recorded.
 - b. Dale Hardware Inc. has executed and delivered to the City, at no cost to the City, an easement granting the city temporary roadway and utility easement to allow the public and public utility agencies the right to use and to maintain the roadway, sidewalk and utilities existing in the vacated portion of Thornton Avenue until such time as the developer removes and reconstructs the road, sidewalk and utilities as permitted by the City and other public agencies or utilities.
6. Upon payment to the City of a sum determined to be the fair market value of the parcels, authorize the City Manager, or designee to execute a deed conveying Parcels A and C as shown on Exhibit "A" to Dale Hardware Inc.
7. Direct that the resolution vacating a portion of Thornton Avenue; the Dale Hardware expansion project lot combination; the deed for Parcels A and C, and the temporary easement allowing public use of the vacated Thornton Avenue shall be deposited into an informal escrow with the City and shall be recorded together in the following order:
 - a. Resolution vacating a Portion of Thornton Avenue
 - b. Deed conveying the Parcels A and C (as shown on Exhibit A) of the vacated portion of Thornton Avenue to Dale Hardware Inc.
 - c. Lot Combination for the Dale Hardware store expansion project.
 - d. Temporary Easement from Dale Hardware Inc. to the City for public use of the vacated portion of Thornton Avenue.

6.1 Report Out from Closed Session of Any Final Action

7.1 CAPITAL IMPROVEMENT PROGRAM (CIP) PROCESS UPDATE AND PWC CLOSE OUTS

Presentation of CIP Progress, Capital Revenue Projections and Initial Project Prioritization, and Approve the Close Out of Completed Capital Projects

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Executive Summary: The purpose of this item is to present an update on the Capital Improvement Program (CIP) budget process, review projected revenues and initial project prioritization for the FY 2011/12-2015/16 CIP program, and recommend projects for further costing and scoping. This report also requests that the City Council close out or defund 45 capital projects and return unused appropriations to their respective funds for reprogramming in the next Capital Improvement Program budget, and direct staff to make an application to the WW Local Grant Program, 2010 cycle, for funding of approved projects.

BACKGROUND: The purpose of the CIP is to translate capital improvement policies of the City Council into specific projects to be implemented during the upcoming five-year period. The CIP development process involves a comprehensive internal project planning effort, and multiple opportunities for the City Council to review the progress of the CIP development and to provide direction to staff. Staff began planning for this upcoming CIP cycle in the summer, developing preliminary projections of capital funds availability. A review of projected funds showed that revenues and interest earnings were generally down across several fund group categories, resulting in a shortfall of funding for projects programmed for funding in Fiscal Years 2011/12-2013/14 of the current fiveyear FY 2009/10-2013/14 CIP. Given the funding shortfall, staff comprehensively reviewed the inventory of previously funded capital projects and analyzed all projects for completion status and funding balance. Staff identified some projects as candidates for close out and defunding, while other projects were identified as having sufficient funding remaining to allow for partial defunding, with the defunded amounts returning to their source fund for re-appropriation towards other projects during this CIP development.

At tonight's meeting, staff will present the CIP process and schedule, review the CIP prioritization policy, and present capital revenue projections and funding availability. Staff will also present an initial prioritization of capital project proposals and provide recommendations for Council on projects to move forward for further costing and scoping in the CIP process. Council will also be asked to approve the close out or defunding of capital projects and return the resultant balances back to the applicable fund for future appropriation in the CIP.

DISCUSSION/ANALYSIS:

Project Prioritization: CIP project proposals have been sorted into fund groups and prioritized based on the most appropriate primary funding source for the project. After determining proper fund groups, projects were prioritized based on the Council-approved CIP Prioritization Guidelines, which advocate highest priority for capital maintenance that protects health and safety, and preserving asset life. Enclosure A includes projects in each fund group prioritized to a funding line that incorporates revenues, fund interest, and balances available for the fund group. Staff's recommendations for projects in all fund groups to receive further costing and scoping lie above the given funding line. Staff asks that Council review and comment on the project prioritizations for each fund group.

Revenues: Updated revenue estimates are available in Enclosure A.

PWC Status and Close Outs: The City currently manages over 200 capital projects in various stages of development that have received appropriation of funds by the City Council. The vast majority of these projects are successfully managed by staff through project completion, meeting initial budget appropriation amounts. Staff also pursues funds from outside sources whenever possible to either wholly fund or partially offset City project expenses. The complete list of capital projects is provided with status updates as Enclosure B.

Close Outs: Staff maintains the list of these capital projects and periodically requests City Council approval for projects that are ready to be closed. Upon completion of right-of-way acquisition, construction and other related activities, some capital projects have remaining budget appropriations. Historically, projects with over-expended balances are offset against projects with under-expended balances within the same fund, and all are closed simultaneously. The close outs enable any remaining project appropriations to be returned to their respective funds for programming in future capital plans.

Defunding, Transfers & Appropriations: Staff's review of previously funded capital projects resulted in the recommendation of the partial defunding (but not close out) of 18 capital projects, with the defunded amounts returning to their source fund for re-appropriation towards other projects during this CIP development. These defunded projects are identified in Enclosure C. Some projects were identified as having remaining balances that may be appropriate to transfer to similar types of projects. Staff recommends transferring funds from the following projects:

1. Remaining balance from PWC 7882 "Central Park Turf Renovation" upon close out to PWC 7859 "Central Park Turf/Poplars"
2. Remaining balance from PWC 8664 "Mission/Driscoll Pedestrian Signal Improvement" upon close out to PWC 8451, "Bicycle and Pedestrian Improvement Projects",
3. Remaining balance from PWC 8726 "Green Zoning Ordinance" upon close out to PWC 8725, "LED Streetlight and Parking."

Staff is also requesting that Council approve the defunding and transfer of remaining Proposition 42 appropriations in the Street Overlay (PWC 8234) and Slurry Seal (PWC 8240) projects to a new Gas Tax Fund 135. This transfer is a swap based on the State's elimination of the Proposition 42 gas sales tax in exchange for a raised state gas excise tax and increased diesel sales tax.

Staff also recommends that Council approve minor appropriations to two existing capital projects. Staff requests the appropriation of interest earnings (approximately \$188,000) from Proposition 1B funding to the Street Overlay project (PWC 8234) and the appropriation of \$11,000 for funds received from the Candlelighters (\$6,000) and Washington Township & Mission Peak (\$5,000) to 502PWC8394 for Rancho Higuera Roof Restoration.

Measure WW: In 2008, Alameda and Contra Costa County voters approved a \$500 million extension of the 1988 Park Improvement Bond Measure AA (Measure WW). Measure WW includes \$125 million for cities, special park and recreation districts, county service areas, and the Oakland Zoo for much-needed local park and recreation projects. The City of Fremont was allocated \$9,758,562, to be used for City projects. To date, \$4,973,000 has been programmed from the WW to Fremont projects. The remaining amount will be applied for through the Measure WW Local Grant Program administered by EBRPD in accordance with final City Council action on the 2011/12 through 2015/16 Capital Plan. All projects must be completed by December 31, 2018.

The Measure WW funds are eligible for uses that many of the City's Parks Funds are not. City impact fees, which generate most of the City's funding for park development, may only be used for the creation of new or expanded parks in compliance with the Park Master Plan. Renovation projects throughout the parks have historically been underfunded. The Measure WW funds are an opportunity for Fremont to catch up on some long awaited renovating and upgrade projects throughout the park system that would otherwise require funding through the General Fund. Since the renovation and upgrade projects are facilities already maintained by the City, it is possible to commit to the Measure WW requirement to maintain the completed project for 25 years. Furthermore, the renovation and upgrade projects will reduce overall maintenance demands as the on-going facility repairs on which staff currently works will be substantially reduced through the projects. The projects will be maintenance beneficial.

Staff from the Parks and Recreation Department and Community Development Department have collaborated on a draft plan for renovating some of the City's aging facilities such as playgrounds, irrigation, lighting, turf renovation, building repair, concrete repair, and many others. The 2011/12 through 2015/16 Capital Plan includes the remaining projects for the WW program, as recommended by the Recreation Commission on November 17, 2010.

Each year, the City is eligible to submit for project funds between February 1 and March 31 under a Master Agreement between EBRPD and the City that was approved by City Council on March 2, 2010. Staff will make applications each year in accordance with the 2011/12 through 2015/16 Capital Plan. However, since City Council will not be deciding on the Capital Plan until June 2011, this report has a separate recommendation to approve the 2011 applications. The Measure WW applications recommended by the Recreation Commission for 2011 address \$2,673,000 in Citywide park facility upgrades. The park projects recommended for 2011 are Patterson House Foundation and Electrical Improvements (\$823,000), Warm Springs Restrooms and Recreation Room Replacement (\$475,000), Calsense Irrigation System for Park System (\$514,000), and Well and Pump Replacements at various locations (\$861,000). This report includes a recommendation to approve these projects for the current WW application cycle in advance of the 5-year plan adoption in June 2011.

ENCLOSURES:

- [Enclosure A: CIP Project Binder with Staff Recommendations for Project Prioritization](#)
- [Enclosure B: PWC Status Report](#)
- [Enclosure C: PWC Closeout List](#)

RECOMMENDATIONS:

1. Provide comment on staff prioritization lists.
2. Approve the close outs and defunding of capital projects identified on Enclosure C, and return funds to fund balance for future appropriation in the FY 2011/12-2015/16 CIP.
3. Approve the transfer of remaining funds between capital projects as identified on Enclosure C.
4. Approve appropriation of current and future interest earnings from Proposition 1B funding to 527PWC8234.
5. Approve appropriation of \$11,000 for funds received from Candlelighters (\$6,000) and Washington Township & Mission Peak (\$5,000) to 502PWC8394 for Rancho Higuera Roof Restoration.
6. Direct staff to make an application to the WW Local Grant Program, 2011 cycle, for \$2,673,000, for the Patterson House Foundation and Electrical Improvements (\$823,000), Warm Springs Restrooms and Recreation Room Replacement (\$475,000), Calsense Irrigation System for Park System (\$514,000), Well and Pump Replacements at various locations (\$861,000).

7.2 FREMONT SKATE PARK DESIGN

Further Consideration of the Site Master Plan and Related Environmental Document for the Fremont Skate Park, 8672 (PWC)

Contact Person:

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Executive Summary: This item is before the City Council for further consideration and direction to staff in light of *Freeman v. City of Fremont*, Alameda County Superior Court Case RG10541529.

BACKGROUND: On September 14, 2010, the City Council approved the Site Master Plan and art designed for the Fremont Skate Park in Central Park and adopted a Negative Declaration for project. Subsequently, on October 14, 2010, petitioner John Freeman brought a lawsuit against the City challenging the adequacy of the Negative Declaration. The City Council held a closed session on November 9, 2010 and directed the City Attorney to discuss with the petitioner how the case could be settled. The City Attorney met with petitioner and his counsel on November 12, 2010. On December 13, 2010, Petitioner submitted a settlement proposal to the City Attorney. The City Council considered the proposal in closed session on December 14, 2010 and directed staff to place this matter on the agenda for further Council action.

ENCLOSURE: [September 14, 2010 Staff Report to City Council for the project](#)

RECOMMENDATION:

1. Consider rescinding previous project approvals.
2. Provide direct to staff.

8.1 Council Referrals – None.

8.2 Oral Reports on Meetings and Events

ACRONYMS

ABAG.....	Association of Bay Area Governments	FUSD	Fremont Unified School District
ACCMA.....	Alameda County Congestion Management Agency	GIS	Geographic Information System
ACE	Altamont Commuter Express	GPA.....	General Plan Amendment
ACFCD	Alameda County Flood Control District	HARB	Historical Architectural Review Board
ACTA	Alameda County Transportation Authority	HBA	Home Builders Association
ACTIA	Alameda County Transportation Improvement Authority	HRC	Human Relations Commission
ACWD	Alameda County Water District	ICMA	International City/County Management Association
BAAQMD	Bay Area Air Quality Management District	JPA	Joint Powers Authority
BART	Bay Area Rapid Transit District	LLMD	Lighting and Landscaping Maintenance District
BCDC	Bay Conservation & Development Commission	LOCC.....	League of California Cities
BMPs	Best Management Practices	LOS	Level of Service
BMR	Below Market Rate	MOU	Memorandum of Understanding
CALPERS.....	California Public Employees' Retirement System	MTC.....	Metropolitan Transportation Commission
CBD	Central Business District	NEPA	National Environmental Policy Act
CDD.....	Community Development Department	NLC.....	National League of Cities
CC & R's	Covenants, Conditions & Restrictions	NPDES.....	National Pollutant Discharge Elimination System
CDBG	Community Development Block Grant	NPO.....	Neighborhood Preservation Ordinance
CEQA	California Environmental Quality Act	PC.....	Planning Commission
CERT	Community Emergency Response Team	PD	Planned District
CIP	Capital Improvement Program	PUC.....	Public Utilities Commission
CMA	Congestion Management Agency	PVAW	Private Vehicle Accessway
CNG.....	Compressed Natural Gas	PWC.....	Public Works Contract
COF	City of Fremont	RDA	Redevelopment Agency
COPPS	Community Oriented Policing and Public Safety	RFP	Request for Proposals
CSAC.....	California State Association of Counties	RFQ.....	Request for Qualifications
CTC	California Transportation Commission	RHNA	Regional Housing Needs Allocation
dB	Decibel	ROP.....	Regional Occupational Program
DEIR.....	Draft Environmental Impact Report	RRIDRO.....	Residential Rent Increase Dispute Resolution Ordinance
DO	Development Organization	RWQCB	Regional Water Quality Control Board
DU/AC.....	Dwelling Units per Acre	SACNET	Southern Alameda County Narcotics Enforcement Task Force
EBRPD	East Bay Regional Park District	SPAA	Site Plan and Architectural Approval
EDAC	Economic Development Advisory Commission (City)	STIP	State Transportation Improvement Program
EIR.....	Environmental Impact Report (CEQA)	TCRDF.....	Tri-Cities Recycling and Disposal Facility
EIS	Environmental Impact Statement (NEPA)	T&O	Transportation and Operations Department
ERAF	Education Revenue Augmentation Fund	TOD	Transit Oriented Development
EVAW	Emergency Vehicle Accessway	TS/MRF	Transfer Station/Materials Recovery Facility
FAR	Floor Area Ratio	UBC	Uniform Building Code
FEMA.....	Federal Emergency Management Agency	USD.....	Union Sanitary District
FFD.....	Fremont Fire Department	VTa	Santa Clara Valley Transportation Authority
FMC.....	Fremont Municipal Code	WMA	Waste Management Authority
FPD.....	Fremont Police Department	ZTA.....	Zoning Text Amendment
FRC.....	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27
BROADCAST SCHEDULE**

<i>Date</i>	<i>Time</i>	<i>Meeting Type</i>	<i>Location</i>	<i>Cable Channel 27</i>
January 18, 2011	5:00 p.m.	Work Session	Council Chambers	Live
January 25, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 1, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 8, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 15, 2011	TBD	Work Session	Council Chambers	Live
February 22, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 1, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 8, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 15, 2011	TBD	Work Session	Council Chambers	Live
March 22, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 5, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 12, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 19, 2011	TBD	Work Session	Council Chambers	Live
April 26, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 3, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 10, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 17, 2011	TBD	Work Session	Council Chambers	Live
May 24, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 31, 2011 (5 th Tuesday)		No Council Meeting		